

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

PATRICIA A. HEIB,	:	
	:	
Plaintiff,	:	
	:	Case No.
v.	:	
	:	Judge
HOOBERRY & ASSOCIATES, INC.,	:	
d/b/a LAURIE ANN NURSING	:	
HOME,	:	
	:	
Defendant.	:	

NOTICE OF REMOVAL

Defendant Hooberry & Associates, Inc. d/b/a Laurie Ann Nursing Home, by and through the undersigned counsel, hereby gives notice of removal of this action from the Court of Common Pleas, Trumbull County, Ohio to the United States District Court for the Northern District of Ohio. In support of this Notice of Removal, Defendant respectfully submits to this Honorable Court:

1. The Complaint in *Patricia A. Heib v. Hooberry & Associates, Inc., d/b/a Laurie Ann Nursing Home*, Case No. 2017-CV-191, was filed in the Court of Common Pleas, Trumbull County on or about January 31, 2017. A copy of the Complaint is attached hereto as Exhibit A. A summons was served on Defendants by Certified Mail on February 1, 2017. True copies of the Summons and the docket showing the date of service are attached hereto as Exhibits B and C. No other pleadings have been filed, entered, served, or issued upon or by Defendant at this time.

2. This Notice of Removal is timely filed pursuant to 28 U.S.C. §1446(b) in that it is filed within thirty (30) days of receipt of the Summons and Complaint by Defendants.

3. This is an action of a civil nature in which the district courts of the United States have been given original jurisdiction in that the action arises under the laws of the United States and it invokes the federal question jurisdiction of this Court as provided in 28 U.S.C. §§1331, 1441(a), and 1441(b). More specifically, Plaintiff's Complaint alleges Defendant violated the Fair Labor Standards Act of 1938 ("FLSA"), 29 U.S.C. §§2001 *et seq.* and §2016(b) and Portal-to-Portal Act, 29 U.S.C. §251, *et seq.*

4. The Complaint asserts that "Defendant has willfully violated the FLSA, failing or refusing to pay Plaintiff for her "longer than forty hours" workweeks at a rate not less than one and one-half times the regular rate at which she was employed," (Compl. ¶3). Because Plaintiff asserts a claim under the laws of the United States, this Court has original jurisdiction over this case pursuant to 28 U.S.C. §1331.

5. Accordingly, this action may be removed to this Court pursuant to 28 U.S.C. §§1331, 1441, and 1446.

6. Pursuant to 28 U.S.C. §1391, venue is proper in the United States District Court for the Northern District of Ohio, insofar as Defendant conducts business in Trumbull County, Ohio, which is within this Court's jurisdiction.

7. As required by 28 U.S.C. §1446(d), Defendant provided written notice of the filing of this Notice of Removal to Attorney Michael D. Rossi, counsel of record for

Plaintiff, and it filed this Notice of Removal with the Clerk of the Trumbull County Court of Common Pleas. (Notice of Filing Notice of Removal, attached as Exhibit D).

WHEREFORE, pursuant to 28 U.S.C. §§1331, 1441, and 1446, Defendant removes this case from the Trumbull County Court of Common Pleas to this Court.

Respectfully submitted,

/s/ Bradley A. Sherman

Bradley A. Sherman (0063906)

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HOOBERRY & ASSOCIATES, INC.

CERTIFICATE OF SERVICE

I hereby certify that on February 22, 2017, a copy of the foregoing *Notice of Removal* was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

/s/ Bradley A. Sherman

Bradley A. Sherman

Attorney for Defendant
HOOBERRY & ASSOCIATES, INC.

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